IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7044 of 2007
Date of Decision: 11.5.2007

Punjab Government Transport Workers Union

Petitioner

versus

Presiding Officer and another

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri N.K.Nagar, Advocate, for the petitioner

Jasbir Singh, J. (Oral)

This writ petition has been filed against the award dated 2.2.2006 (Annexure P/1), vide which, prayer of Kashmira Singh, the workman, to interfere in order dated 10.5.1990, vide which, two increments were stopped with cumulative effect, was declined.

It is apparent from the records that the workman, named above, was issued a show cause notice, for imposition of penalty of dismissal. It was allegation against him that when he was working as a Conductor, he did not issue tickets to the passengers after receipt of money. During enquiry, he was found guilty. However, by taking a lenient view, instead of dismissal, only two increments were stopped with cumulative effect vide order dated 10.5.1990. The workman did not file any appeal against that order, as envisaged under the rules. He went to the Civil Court and his suit was partly decreed in the year 1992. Feeling dissatisfied, he went in appeal, which too was dismissed in the year 1992. He kept mum for a period of 8 years and thereafter sent a demand notice, raising an industrial dispute.On failing of conciliation proceedings, matter was referred to the Labour Court. After recording evidence and on perusal thereof, prayer to interfere in the

punishment order was declined primarily on the ground that the matter has been raised at a belated stage. The Court below has observed thus:-

> *"11. Now coming to the next point, it has been pleaded by the respondent that the reference is bad due to delay and latches because the Union has raised the industrial dispute after the passing of 13 years and the delay has not been explained in the demand notice as well as in the statement of claim. I have perused the demand notice and the statement of claim. Undisputedly, the delay has not been explained either in the demand notice or in the statement of claim. The demand notice carries no date, but in the body of it, it is mentioned that in the meeting of the union held on 25.9.2000, it was decided to raise an industrial dispute. Thereafter, the demand notice was filed before the Conciliation Officer and obviously on failure of any conciliation, the matter was referred to this Tribunal for adjudication on 23.6.2003. The order regarding stoppage of increment was passed on 10.5.90. Even the Sub Judge has decided the suit on 29.4.92 and the appeal was also dismissed on 6.8.92, but the demand notice has been issued after the meeting of the union which was held on 25.9.2000 i.e. after about 10 years from the date of the impugned order dated 10.5.90 and after about 8 years after the decision of the suit by the civil court. The Hon'ble Supreme Court has held in Balbir Singh vs. Punjab Roadways & another 2001 (2) RSJ 5(S.C.) that:-*
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> > *"Whether relief to the workman should be denied on the ground of delay or it should be appropriately*

moulded is at the discretion of the Tribunal depending on the fact and circumstances of the case. No doubt the discretion is to be exercised judicially."

12. In the above mentioned case, the Tribunal, in its award has held that the punishment order were vitiated having been passed without holding proper enquiry, but declined to grant relief in respect of certain orders on the ground of delay. However, in writ petition, the Hon'ble High Court has also up held the orders of the Tribunal and declined to grant any relief in the matter on the ground of delay. In the instant case, there is no explanation, not even a word regarding the delay in raising the industrial dispute. Similarly, the Hon'ble Punjab & Haryana High Court in Sat Pal vs. Presiding Officer, Labour Court, Gurdaspur and others, 2001 (2) RSJ 634 has held that the dispute is a stale one and declined to grant any relief. In this case, the petitioner was terminated on 30.4.85, whereas the demand notice was issued on 4.8.1993 i.e. after about 8 years."

We feel that the findings given are perfectly justified. It is a long delay of 8 years in between dismissal of appeal filed by the respondent-workman before the Civil Court and sending of the demand notice in the year 2000. No explanation has been given in the demand notice and claim statement for such a huge delay. No case is made out for interference even on merit.

Dismissed.

(Jasbir Singh)
Judge

May 11, 2007 **(Nirmal Yadav)**

gk **Judge**